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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 William Sullivan, et al.,

10 Plaintiffs,

11 v.

12 United States of America,

13 Defendant.
14

No. CV-15-00231-TUC-DCB

ORDER

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16 Plaintiff filed this case in 2015. Discovery ended, after numerous extensions, on May 7,
17 2018. The United States filed a Motion for Summary Judgment on June 18, 2018, and
18 Plaintiffs filed a Crossmotion for Summary Judgment on July 31, 2018. On November 19,
19 2018, the Court granted the Defendant's motion in part, denied it in part, denied the
20 Plaintiffs' crossmotion, and gave the parties 30 days to file the Joint Pretrial Order. In this
21 Court filing the Pretrial Order reflects that a case is trial ready. After a motion for
22 clarification and a stay due to the federal government shutdown, the Pretrial Order was
23 filed on February 22, 2019. The Court set the Pretrial Conference on March 4, 2019,
24 whereat the trial was set for April 22, 2019. On the morning of the trial, the Defendant
25 filed a Notice of Settlement informing the Court that the parties would file a stipulation to
26 dismiss the case with prejudice, (Doc. 157), and filed a Motion to Vacate the Bench Trial
27 (Doc. 158).
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1 The Court vacated the bench trial, closed the case pursuant to the Notice of
2 Settlement, and gave the parties 30 days to file the appropriate dismissal documents. The
3 Court retained jurisdiction to reopen the case and return it to the Court's active docket, in
4 the event problems arose in relation to the settlement. (Order (Doc. 160)). Since then, two
5 stipulated extensions of time have been sought and granted by the Court for the parties to
6 file the dismissal documents, with the last extension being to: August 20, 2019. On July
7 23, 2019, the Plaintiffs sought, and the Court issued, deadlines that the Department of
8 Justice to approve the settlement by August 7, 2019, and for the settlement funds to be
9 delivered to the Plaintiffs by August 19, 2019.

10 The Court issued the Order without hearing from the Defendant, and on August 6,
11 2019, the Government filed a Motion for Reconsideration. According to the Defendant,
12 the settlement has received all the requisite approvals from the United States Attorneys and
13 the Veterans Administration and is now pending approval by the Director of the Federal
14 Tort Claims Act (FTCA) Litigation Section of the Department of Justice Torts Branch and
15 then will be ready for a final decision by the Assistant Attorney General. Therefore,
16 another three to four-week extension should result in the Department of Justice's approval
17 of the settlement agreement referenced in the Notice of Settlement to this Court in April.
18 The Defendant reports that settlements are being processed at the DOJ between two to four
19 weeks. The Defendant asks the Court to reconsider and vacate the April 7 deadline set for
20 the DOJ to approve the settlement and the August 19 deadline for the settlement to be
21 processed because these dates are impossible for the DOJ to meet and will result in the
22 nullification of the settlement agreement. The DOJ will be forced to deny the settlement,
23 without considering its merits. The Defendant asks, instead, that it be ordered to file a
24 status report in 30 days regarding the pending settlement decision and process. (Motion
25 for Reconsideration (Doc. 167)).

26 The Plaintiffs respond that they do not object to the Court resetting the deadlines to
27 August 30 and September 13, respectively. Plaintiffs ask the Court to reset the case for
28 trial. The Court will reset the case for trial, therefore, there is no need to reset the settlement

1 deadlines. Upon the parties filing the settlement documents, the trial will be vacated.

2 **Accordingly,**

3 **IT IS ORDERED** that the Motion to Reconsider (Doc. 167) is GRANTED.

4 **IT IS ORDERED** that the Court vacates its Order issued on August 2, 2018 (Doc.
5 166) and its Order issued on April 22, 2019 (Doc. 160).

6 **IT IS FURTHER ORDERED** that this matter is returned to the Court's active
7 docket and reset for trial.

8 **IT IS FURTHER ORDERED** that the case is set for a pretrial conference on
9 Tuesday, October 8, 2019, at 1:30 pm.

10 **IT IS FURTHER ORDERED** that the bench trial is reset to Wednesday, October
11 9, 2019 at 9:30 a.m.

12 **IT IS FURTHER ORDERED** that the pretrial conference and trial shall be held
13 before the Honorable David C. Bury in Courtroom 6B, Sixth Floor, Evo A. DeConcini
14 United States Courthouse, 405 W. Congress Street, Tucson, Arizona.

15 **IT IS FURTHER ORDERED** that within 30 days of the filing date of this Order,
16 the Defendants shall file a report with the Court regarding the status of the pending
17 settlement decision process.

18 Dated this 9th day of August, 2019.

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Honorable David C. Bury
United States District Judge